

**UNITED STATES DISTRICT COURT
DISTRICT OF MAINE**

**UNITED STATES OF AMERICA,)
)
vs.) **DOCKET NO. 2:21-mj-111-JHR**
)
ANDREW HAZELTON)**

**MOTION FOR RELEASE ON CONDITIONS PENDING TRIAL
AND SUPPORTING MEMORANDUM**

Now Comes **Andrew Hazelton**, by counsel, pursuant to 18 U.S.C. § 3142 and asks the court to release him on conditions pursuant to § 3142(c).

1. Andrew Hazelton was arrested on April 29, 2021 based on a criminal complaint, charging possession of child pornography. ECF ## 1, 5. A detention hearing occurred on May 5, 2021. The defense offered a release plan based on Hazelton returning to his apartment in Portland, ME with conditions. The court found the proposal sufficient on the flight prong but found the Government “government proved, by clear and convincing evidence, that no condition or combination of conditions of release will reasonably assure the safety of any other person and the community.” Order of Detention, ECF # 14.

2. Counsel has been working with Andrew’s parents on a new release plan. At the May 5 hearing the court asked about the possibility of a third party custodian and Andrew residing

with a family member. Andrew's father Scott¹ is now able to serve as a third party custodian and offers to live with Andrew at a family property. The property is a two story, three bedroom, single family farmhouse situated on about an acre of land in a small town about 150 miles from Portland and about an hour's drive from Hazelton's parent's primary residence. Scott Hazelton can live with Andrew at this family property and work remotely. He can serve as third part custodian. The proposed residence has no WiFi and no internet service. The location receives Verizon cellular service and Scott can connect using that to work. He can also supervise Andrew in connecting for medical appointments and counseling. The address has been provided to pre-trial services for vetting and for coordination of supervision in the state where the residence is located.

3. Hazelton is concerned for his health during this pandemic and being held in jail. He has not yet been indicted and the earliest trials are not until August, 2021. Many other defendants have been held longer and are ahead of Hazelton awaiting trial.

4. Hazelton has the burden of showing a change of circumstances which he has done, specifically by offering a new release plan that includes a third party custodian and living in a location dramatically different than the Portland, Maine apartment offered under the original release proposal. The burden now shifts to the Government to show there are no

¹ John Scott Hazelton goes by Scott.

conditions of release that would adequately assure safety of the community under the current proposal.

5. The defense proffers the following:

Counsel has spoken with the defendant's father and mother on multiple occasions. Andrew is close with them both. Andrew's father Scott, is willing to serve as a third party custodian of Andrew. Scott offers to reside with Andrew in a family property described above, being a 3 bedroom house on about an acre of land in a small town about 150 miles from Portland and about an hour from Andrew's parent's primary residence. Scott can work remotely, linking to work or the internet by cellular service. The house has no internet or WiFi. Scott's phone and laptop are password protected. Andrew would have no direct access to any on-line activity. Scott would log Andrew into and out of any needed medical, counseling or treatment appointments that utilize on-line (Zoom for example). Scott would also log Andrew into and out of any video or on-line based legal meetings, court or probation supervision meetings. Scott would be present with Andrew for any family meetings that used any on-line service. There are no illegal drugs or contraband in the apartment. Scott will pick Andrew up from the Strafford County Jail if released and drive him directly to the described residence. Scott will transport Andrew to court on all

dates and times as set by the court. Scott will transport Andrew to any necessary medical, counseling or other meetings including meeting his supervising officer as directed.

6. Conditions of release are available that should alleviate any concerns of flight or safety. These include:

- Home Detention, a Third Party Custodian and Electronic Monitoring;
- Reside at an approved residence;
- No contact direct or indirect with any known witness;
- Participate in evaluation and treatment for medical and mental health and substance abuse treatment as directed by the supervising officer;
- No possession of weapons;
- No possession of any internet enabled device unless supervised by third party custodian, or alternatively participation by Andrew in the Computer and Internet Monitoring supervision terms.
- Not obtain a passport;
- Other conditions the court finds appropriate.

Wherefore following a hearing the defendant request the court grant release on conditions in conformity with 18 U.S.C. § 3141(a).

DATE: May 17, 2021

/s/ David Beneman
David Beneman
Attorney for Andrew Hazelton

David Beneman
Federal Defender
P.O. Box 595
Portland, Me 0412-0595
207-553-7070 ext. 101
David_Beneman@fd.org

CERTIFICATE OF SERVICE

I, David Beneman, attorney for Andrew Hazelton, hereby certify that I have served, electronically, a copy of the within “**MOTION FOR RELEASE ON CONDITIONS PENDING TRIAL AND SUPPORTING MEMORANDUM**” upon Craig Wolff, Assistant United States Attorney, United States Attorney’s Office, Portland, ME, and all other counsel of record via the ECF system.

/s/ David Beneman
David Beneman

DATE: May 17, 2021